

Baker & Hostetler LLP

45 Rockefeller Plaza
New York, New York 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
Oren Warshavsky
Email: owarshavsky@bakerlaw.com

Presentment Date: March 16, 2015

Time: 12:00 p.m.

Objections Due: March 13, 2015

Hearing Date (Only if necessary): _____

Time: _____

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

COHMAD SECURITIES CORPORATION, *et al.*,

Defendants.

Adv. Pro. No. 09-01305 (SMB)

**TRUSTEE'S MOTION TO ENLARGE TIME PURSUANT TO
FED. R. BANKR. P. 9006(b) TO SUBSTITUTE THE ESTATE OF
CYRIL JALON FOR PARTY CYRIL JALON**

Irving H. Picard (the "Trustee"), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") and the substantively consolidated estate of Bernard L. Madoff ("Madoff") under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* ("SIPA"), by his undersigned counsel, most respectfully moves this Court pursuant to

Rule 9006(b) of the Federal Rules of Bankruptcy Procedure (“Rule 9006(b)”) for an enlargement of time to substitute the Estate of Cyril Jalon for deceased defendant Cyril Jalon. Such substitution of parties is pursuant to Fed. R. Civ. P. 25 (“Rule 25”), made applicable to this adversary proceeding by Rule 7025 of the Federal Rules of Bankruptcy Procedure (“Rule 7025”).

INTRODUCTION AND BACKGROUND

In 2009, the Trustee commenced this action against, among others, Cyril Jalon (“Decedent”). On December 7, 2014, Cyril Jalon died in The Bronx, New York. Counsel for the defendants filed a suggestion of death with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) on December 15, 2014 (Dkt. 307), giving the parties 90 days to substitute parties pursuant to Rule 25. The Decedent’s estate entered into probate in the State of New York, Surrogate’s Court: County of Westchester on December 11, 2014. However, as of the date of this motion, no letters testamentary have been issued and no administrator has been appointed by the Surrogate’s Court, necessitating an enlargement of time to substitute the parties.

ARGUMENT

Rule 9006(b)(1) provides:

When an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

Fed. R. Bankr. P 9006(b)(1). Here, Rule 25, as made applicable to this adversary proceeding by Rule 7025, requires a motion for substitution of parties to be made within ninety days of the

service of statement of death. Fed. R. Civ. P. 25(a)(1); *see* Fed. R. Bankr. P. 7025 (“Rule 25 F.R.Civ.P. applies in adversary proceedings.”). In this case, the 90-day period expires on March 17, 2015. Therefore, this motion is made “before the expiration of the period originally prescribed . . .” and is an “act [] required . . . to be done at or within a specified period . . .” Fed. R. Bankr. P. 9006(b)(1). Consequently, Rule 9006(b) permits this Court to enlarge time.

No administrator or testamentary letters have been issued in Cyril Jalon’s probate matter. Thus, the Trustee requests the enlargement of time to provide sufficient time for the Trustee to substitute proper parties in the action for Decedent.

CONCLUSION

Accordingly, for the reasons set forth above, the Trustee respectfully requests this Court order an enlargement of time to September 17, 2015 for the Trustee to substitute the Estate of Cyril Jalon for deceased defendant Cyril Jalon.

Dated: New York, New York
February 27, 2015

/s/ Oren J. Warshavsky

Baker & Hostetler LLP

45 Rockefeller Plaza

New York, New York 10111

Telephone: (212) 589-4200

Facsimile: (212) 589-4201

Oren J. Warshavsky

Email: owarshavsky@bakerlaw.com

*Attorneys for Irving H. Picard, Esq. Trustee
for the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff Investment
Securities LLC and the estate of Bernard L.
Madoff*